

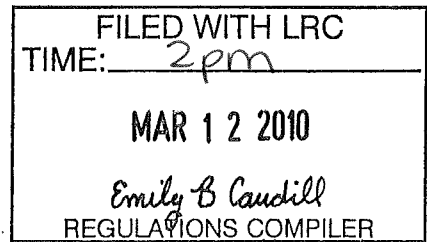
301 KAR 2:132

Elk depredation permits, landowner cooperator permits, and quota hunts

This administrative regulation establishes elk hunting requirements and legal methods to handle elk depredation problems.

Significant Changes

This amendment subdivides EHU 3 into 2 subunits to better distribute hunting pressure on Consol WMA, removes the November firearms elk season, assigns cow hunters to 1 of 2 firearms weeks, eliminates the metal tag requirement for in-zone hunters, removes the deer permit requirement for out-of-zone hunters, allows landowner cooperators to opt for 2 antlerless tags in lieu of 1 antlered tag, creates 4 types of regular quota hunts for the 2011-2012 elk season, blocks those drawn for a bull tag from entering the lottery for 3 years, blocks those drawn for the special youth hunt from applying for that hunt again, and sets a 2 week archery-only season in September.



1 TOURISM, ARTS AND HERITAGE CABINET

2 Kentucky Department of Fish and Wildlife Resources

3 (Amendment)

4 301 KAR 2:132. Elk depredation permits, landowner cooperator permits, and quota hunts.

5 RELATES TO: KRS 150.010, 150.180, 150.990

6 STATUTORY AUTHORITY: KRS 150.025(1), 150.170(4), 150.177, 150.178, 150.390(3)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department

8 to establish hunting seasons, regulate bag and possession limits, and determine the methods and

9 devices used to take wildlife. KRS 150.170(4) exempts landowners, their dependents, and their

10 resident tenants from license requirements. KRS 150.177 authorizes the department to issue

11 special commission permits for game species to nonprofit wildlife conservation organizations.

12 KRS 150.178 authorizes the department to issue cooperator [elk] permits to landowners who

13 enroll property for public hunting access. KRS 150.390(3) authorizes the department to

14 promulgate administrative regulations establishing the conditions under which depredation

15 permits for elk may be issued. This administrative regulation establishes the requirements for the

16 elk permit drawing and quota hunts, the conditions under which special commission and

17 landowner cooperator permits can be used, procedures for elk damage abatement, [abatement]

18 and any post-season hunt [~~to be~~] held after the quota hunts.

19 Section 1. Definitions. (1) "Antlered elk" means an elk having one (1) antler with [~~one (1) antler~~

20 ~~possessing~~] four (4) or more antler points that are each at least one (1) inch long when measured

21 from the main beam which also counts as one (1) point.

(2) "Antlerless elk" means an elk without visible polished antler protruding above the hairline.

(3) "Bait" means a substance composed of grains, minerals, salt, fruits, vegetables, hay, or any other food materials, whether natural or manufactured, that may lure, entice, or attract wildlife.

(4) "Baiting" means to place, deposit, tend, distribute, or scatter bait.

(5) "Electronic decoy" means a motorized decoy powered by electricity, regardless of source.

(6) [(4)] "Elk" means *Cervus elaphus nelsoni*.

(7) [(5)] "Elk Hunting Unit" or "EHU" means a designated area in the restoration zone with specific management restrictions.

(8) ~~[within the elk restoration zone possessing specific elk management restrictions.~~

(6)] "Elk Management Unit" or "EMU" means a designated area in the restoration zone with specific management restrictions for a post-season antlerless elk quote hunt.

(9) ~~[within the elk restoration zone, possessing specific elk management restrictions during a postseason antlerless quota hunt.~~

(7)] "Landowner cooperator" means a landowner or lessee who owns or leases at least 5,000 acres of land in the restoration zone and enters an agreement with the department to allow public access and hunting for five (5) years.

(10) [(8)] "Out-of-zone" means all counties not included in the restoration area.

(11) [(9)] "Restoration zone" means the following Kentucky counties: Bell, Breathitt, Clay, Floyd, Harlan, Johnson, Knott, Knox, Leslie, Letcher, Magoffin, Martin, McCreary, Perry, Pike, and Whitley.

(12) [(10)] "Youth" means a person under the age of sixteen (16) by the first date of the hunt.

Section 2. Elk Damage Control. The department may authorize the removal or destruction of elk that are causing property damage. A person authorized to destroy an elk shall: ~~[shall not:]~~

(a) Attach a department-issued disposal permit to an elk prior to moving ~~[Move the elk until a disposal permit provided by the department has been attached to]~~ the carcass; and

(b) Not remove ~~[Remove]~~ the disposal permit until the carcass is processed.

Section 3. Regular Elk Quota Hunts. (1) The elk quota hunt lottery ~~[hunt]~~ application period shall be December 1 to April 30.

(2) A person shall apply for the elk quota hunt via the department's Web site and provide: ~~[site. The applicant shall provide the following:]~~

(a) The applicant's name;

(b) Social Security number;

(c) date of birth;

(d) a mailing address or phone number; and

(e)

~~[name, Social Security number, date of birth, and mailing address or phone number; and~~

~~(b)]~~ A nonrefundable application fee of ten (10) dollars.

(3) ~~[An applicant shall not apply more than once per application period.]~~

~~(4)]~~ The commissioner may extend the application deadline if technical difficulties with the application system prevent applications from being accepted for one (1) or more days during the application period.

~~(4) [(5)]~~ There shall be a random electronic drawing.

~~(5) [(6)]~~ Five (5) either-sex elk permits shall be available for a special youth-only ~~[elk]~~ quota hunt to be held for three (3) consecutive days on Paul Van Booven WMA and adjacent private lands as allowed by the landowner, beginning the last Saturday in September.

(a) There shall be a separate random electronic drawing for the youth-only elk quota hunt.

(b) The application period for the youth-only elk quota hunt shall be December 1 through April 30.

(c) A youth shall apply via the department's Web site and provide: ~~[provide the following:]~~

1. The applicant's name; ~~[Name;]~~

2. Social Security number;

3. Date of birth;

4. Mailing address;

5. Phone number; and

6. A nonrefundable application fee of ten (10) dollars.

(d) An applicant shall not apply for the youth-only elk quota hunt more than once per application period.

(e) An applicant for the youth-only elk quota hunt may also apply for the regular quota hunt as established in Section 3 ~~[also may apply for the regular quota hunt as set forth in Section (3)]~~ of this administrative regulation. A youth applicant drawn for the youth-only elk quota hunt shall not be drawn in the regular quota hunt lottery held during the same calendar year.

(f) A youth drawn for the youth-only elk quota hunt shall be ineligible to be drawn for the youth-only elk quota hunt in subsequent years.

(6) ~~(7)~~ No more than ten (10) percent of all drawn applicants shall be nonresidents.

(7) ~~(8)~~ A quota hunt permit awarded via a department-administered lottery drawing shall not be transferable.

(8) Beginning December 1, 2011, there shall be four separate regular elk quota hunt lotteries consisting of:

(a) Antlered archery;

1 (b) Antlered firearms;

2 (c) Antlerless archery; and

3 (d) Antlerless firearms.

4 (9) Applicants shall enter each lottery separately.

5 (a) A person shall only apply once for an individual lottery, but may enter up to two (2) of the

6 four (4) lotteries, but shall be ineligible to be drawn in more than one (1) lottery;

7 (b) The non-refundable application fee for each lottery entry shall be ten (10) dollars; and

8 (c) Applicants shall be selected for a quota hunt by random electronic drawing.

9 (10) A person who is drawn for an antlered elk quota hunt shall be ineligible to be drawn for any

10 antlered elk quota hunt for the following three (3) years.

11 Section 4. Landowner Cooperator Permits. (1) With the approval of the commission, the

12 commissioner may issue to a landowner cooperator one (1) either-sex elk permit or two (2)

13 antlerless-only permits per each 5,000 acres for each year of the agreement.

14 (2) A recipient of a landowner cooperator permit shall comply with the season, bag limit, and

15 hunter requirements in Sections 5 and 6 of this administrative regulation.

16 (3) A landowner cooperator permit is transferable, but shall only be used [~~only~~] on the land for

17 which the agreement was made.

18 (a) The permit may be transferred to any person eligible to hunt in Kentucky.

19 (b) Prior to hunting, the landowner cooperator or person who has received the transferred permit

20 shall provide [~~the following information~~] to the department:

21 1. The hunter's name;

22 2. Social Security number;

23 3. Address; and

4. Telephone number.

(c) The permit shall not be transferable if previously ~~[after being]~~ used for the harvest of one (1) elk.

(4) Public access agreements with the department shall be recorded in writing.

Section 5. Hunter Requirements. (1) The statewide bag limit shall be one (1) elk per hunter per license year.

(2) A drawn applicant or a person who legally receives a landowner cooperator permit or a special commission permit ~~[issued]~~ pursuant to 301 KAR 3:100 may be accompanied by up to two (2) other individuals.

(3) A person drawn for a regular quota hunt ~~[drawn applicant]~~ shall be assigned to a single EHU and shall not hunt outside that EHU, except that a drawn applicant who owns land in the elk restoration zone may hunt on his or her land.

(4) An elk hunter or any person accompanying an elk hunter shall comply with hunter orange requirements established in 301 KAR 2:172.

(5) An elk hunter shall not:

(a) Take elk except during daylight hours;

(b) Use dogs, except to recover wounded elk using leashed tracking dogs; ~~[for leashed tracking dogs to recover wounded elk;]~~

(c) Hunt over bait; ~~[bait as defined in 301 KAR 3:010;]~~

(d) Drive elk from outside the assigned EHU;

(e) Take an elk while it is swimming;

(f) Use electronic calls or electronic decoys; or

(g) Take an elk if the hunter is in a vehicle, boat, or on horseback, except that a ~~[horseback]~~.

A] disabled hunter who has a hunting method exemption permit issued by the department may use a stationary vehicle as a hunting platform.

(6) A person shall:

(a) Obtain a vehicle tag from the department prior to hunting elk in the restoration zone; and

(b) Display the vehicle tag in the windshield of the vehicle while hunting elk. ~~[An elk hunter hunting in the restoration zone shall display a vehicle tag issued by the department in the windshield of his or her vehicle at all times while hunting elk.]~~

(7) A person under sixteen (16) years old shall be accompanied by an adult who shall remain in a position to take immediate control of the person's firearm.

(8) An adult accompanying a person under (16) years old shall not be required to possess a hunting license or elk permit if the adult is not hunting.

(9) A hunter may use any deer hunting method authorized by ~~[firearm, archery equipment, or crossbow legal for hunting deer pursuant to]~~ 301 KAR 2:172.

(10) Except as authorized by KRS 237.110, a person shall not carry any of the following items while hunting elk:

(a) Any weapon or device prohibited for deer hunting pursuant to 301 KAR 2:172;

(b) A modern firearm less than .270 ~~[of less than .270]~~ caliber;

(c) A muzzle-loading firearm less than .50 ~~[of less than .50]~~ caliber;

(d) A shotgun ~~[of]~~ less than 20 gauge;

(e) Any arrow without a broadhead point;

(f) A handgun with a barrel length of less than six (6) inches, a bore diameter less than .270 ~~[0.270]~~ inches (.270 caliber), and when fired, the bullet shall produce at least 550 ft/lbs of energy

at 100 yards.

(11) Except as authorized by KRS 237.110, a person shall not carry a firearm during the archery-only season as set forth in Section 6 of this administrative regulation.

(12) A person, including one who carries ~~[those who carry]~~ a concealed weapon authorized by KRS 237.110, shall not:

(a) Use any of the items listed in Section 5(10) to take elk;

and

(b) Use any firearm to take elk during the archery-only season as set forth in Section 6 of this administrative regulation.

(13) A quota elk hunter shall only take an elk of the type and sex determined by the permit drawn.

(14) An individual who receives or is transferred a landowner cooperator permit or a special commission permit may hunt in all of ~~[either]~~ the antlered-only or antlerless-only quota hunts in accordance with the seasons and limits in Section 6 of this administrative regulation.

Section 6. Elk Quota Hunt Seasons and Limits. (1) For the 2010-2011 season, a person who is legally participating in a quota hunt ~~[A hunter]~~ may use archery equipment for antlered and antlerless elk beginning the third Saturday in October through the third Monday in January.

(2) For the 2010-2011 season, a person who is legally participating in a quota hunt ~~[A hunter]~~ may use a crossbow for antlered or antlerless elk:

(a) For two (2) consecutive days beginning the third Saturday in October; and

(b) From the second Saturday in November through December 31.

(3) For the 2010-2011 season, a person legally participating in a quota hunt ~~[A hunter]~~ may use archery equipment, a modern firearm, a muzzleloader, or a crossbow:

(a) For antlered elk during one (1) of two (2) seven (7) consecutive day periods as randomly

assigned by the department.

1. The first seven (7)-day period shall begin the first Saturday in October; and [October.]

2. The second seven (7)-day period shall begin the second Saturday in October.

~~[3. The hunter shall be assigned during the regular draw.]~~

(b) For antlerless elk during one (1) of two (2) seven (7) consecutive day periods as randomly assigned by the department.

1. The first seven (7)-day period shall begin the second Saturday in December; and

2. The second seven (7)-day period shall begin the third Saturday in December.

(4) Beginning with the 2011-2012 season, a hunter drawn for an archery antlered or antlerless permit may use archery equipment beginning the third Saturday in September through the third Monday in January, except when a firearms elk season is open,

(5) Beginning with the 2011-2012 season, a hunter drawn for an archery antlered or antlerless permit may use a crossbow beginning the fourth Saturday in September through the third Monday in January, except when a firearms elk season is open.

(6) Beginning with the 2011-2012 season, a hunter drawn for a firearms antlered permit may use a firearm during one (1) of two (2) seven (7) consecutive day periods as randomly assigned by the department.

1. The first seven (7)-day period shall begin the first Saturday in October; and

2. The second seven (7)-day period shall begin the second Saturday in October.

(7) Beginning with the 2011-2012 season, a hunter drawn for a firearms antlerless permit may use a firearm, during one (1) of two (2) seven (7) consecutive day periods as randomly assigned by the department.

1. The first seven (7)-day period shall begin the second Saturday in December; and

2. The second seven (7)-day period shall begin the third Saturday in December.

~~[For antlerless elk;~~

~~1. For ten (10) consecutive days, beginning the second Saturday in November, and;~~

~~2. For fourteen (14) consecutive days beginning the second Saturday in December.]~~

Section 7. EHU boundaries. ~~[EHU's shall be designated as follows:]~~

(1) EHU 1 - Starting at the Martin/Lawrence County line at the Tug Fork of the Big Sandy River, the boundary proceeds southeast following the Tug Fork to the Pike County/Buchanan County, Virginia line. The boundary then proceeds southwest following the Kentucky/Virginia state line to US Hwy 23. The boundary proceeds north following US Hwy 23 to the Johnson/Lawrence County line. The boundary proceeds east following the county line of Johnson/Lawrence and Martin/Lawrence, completing the boundary.

(2) EHU 2 - Starting at the Johnson/Lawrence County line on US Hwy 23, the boundary proceeds south to the intersection of US Hwy 23 with State Hwy 80. The boundary then follows State Hwy 80 west to the intersection with State Hwy 15. The boundary then goes north following State Hwy 15 to the intersection of State Hwy 15 with the Breathitt/Wolfe County line. The boundary then follows the county lines of Magoffin/Wolfe County, Magoffin/Morgan County, and Johnson/Morgan County northeast to US Hwy 23, completing the boundary.

(3) EHU 3A - Starting at the intersection of US Hwy 23 and State Hwy 80, the boundary proceeds south following US Hwy 23 to the intersection of US Hwy 23 with the Kentucky/Virginia state line. The boundary then follows US Hwy 119 west to the intersection of US Hwy 119 with State Hwy 15. The boundary then follows State Hwy 15 northwest to the intersection of State Hwy 15 with State Hwy 80. The boundary then follows State Hwy 80 northeast to the intersection of State Hwy 80 and US Hwy 23, completing the boundary.

1 (4) EHU 3B - Starting at the intersection of State Hwy 550 and 1697, go north on 550 through
2 Mousie and Betty to the intersection with Hwy 7 near Lackey. Turn south on Hwy 7, travel past
3 Dema to intersection with Hwy 899. Turn south on 899, go through Pippa Passes to intersection
4 with 1697 at Alice Lloyd College. Go west on 1697 to intersection with 550 in Garner,
5 completing the boundary.

6 (5) EHU 4 - Starting at the Breathitt/Wolfe County line on State Hwy 15, the boundary proceeds
7 south following State Hwy 15 to the intersection of State Hwy 15 and Hal Rogers Parkway. The
8 boundary then follows Hal Rogers Parkway west to the Clay/Laurel County line. The boundary
9 then follows the county lines of Clay/Jackson County, Clay/Owsley County, Perry/Owsley
10 County, Breathitt/Owsley County, Breathitt/Lee County, and Breathitt/Wolfe County northeast
11 to State Hwy 15 at the Breathitt/Wolfe County line, completing the boundary.

12 (6) [(5)] EHU 5 - Starting at the intersection of the Hal Rogers Parkway and State Hwy 15, the
13 boundary proceeds south following State Hwy 15 to the intersection of State Hwy 15 and US
14 Hwy 119. The boundary then follows US Hwy 119 east to the intersection of US Hwy 119 and
15 US Hwy 23. The boundary then follows US Hwy 23 south to the intersection of US Hwy 23 with
16 the Kentucky/Virginia line. The boundary then follows the Kentucky/Virginia state line
17 southwest to the intersection of the state line with US Hwy 421. The boundary then follows US
18 Hwy 421 north to the intersection of US Hwy 421 and State Hwy 66, then north along 66 to the
19 intersection of 66 and Hal Rogers Parkway. The boundary then follows Hal Rogers Parkway
20 northeast to the intersection of Hal Rogers Parkway and State Hwy 15, completing the boundary.

21 (7) [(6)] EHU 6A - Starting at the intersection of the Hal Rogers Parkway and State Hwy 66, the
22 boundary proceeds south following State Hwy 66 to the intersection of State Hwy 66 with State
23 Hwy 221 at Straight Creek. The boundary proceeds east on State Hwy 221 to the intersection

1 with US Hwy 421. The boundary then proceeds south on 421 to the intersection with the
2 Kentucky/Virginia state line. The boundary then follows the state line west to the
3 Kentucky/Tennessee state line and continues west to the intersection of the Wayne/McCreary
4 County line with the Kentucky/Tennessee state line. The boundary then follows the county lines
5 of McCreary/Wayne County, McCreary/Pulaski County, McCreary/Laurel County,
6 Whitley/Laurel County, Knox/Laurel County, and Clay/Laurel County northeast to the
7 intersection of Hal Rogers Parkway and the Clay/Laurel County Line. The boundary then
8 follows Hal Rogers Parkway east to the intersection of Hal Rogers Parkway and State Hwy 66,
9 completing the boundary.

10 (8) [(7)] EHU 6B - Starting at the intersection of State Hwy 66 and the Hal Rogers Parkway at
11 Big Creek, the boundary proceeds south on State Hwy 66 to the intersection with US Hwy 421.
12 The boundary then follows US Hwy 421 south to the intersection with Kentucky 2058 near
13 Helton, then follows Kentucky 2058 west to Kentucky 1780 at Spruce Pine. The boundary
14 proceeds north on Kentucky 1780 to the intersection with Kentucky 1850 at Warbranch, then
15 west along Kentucky 1850 to the intersection with State Hwy 66 near Queendale. The boundary
16 then follows State Hwy 66 north to the intersection with Hal Rogers Parkway at Big Creek,
17 completing the boundary.

18 (9) [(8)] EHU 6C - Starting at the intersection of US Hwy 421 and Kentucky 2058 near Helton,
19 the boundary proceeds south on US Hwy 421 to the intersection with State Hwy 221. The
20 boundary then follows State Hwy 221 west to the intersection with Kentucky 1780 and turns
21 north to follow Kentucky 1780 to the intersection with Kentucky 2058 at Spruce Pine. It then
22 follows Kentucky 2058 east to the intersection with US Hwy 421, completing the boundary.

23 (10) [(9)] EHU 6D - Starting at the intersection of Kentucky 1780 and Kentucky 1850 at

Warbranch, the boundary proceeds south on Kentucky 1780 to the intersection with State Hwy 221. The boundary then follows State Hwy 221 west to the intersection with Kentucky 2011, turning north along Kentucky 2011 to the intersection of Kentucky 2011 and State Hwy 66. It then follows State Hwy 66 north to Kentucky 1850, then proceeds east on Kentucky 1850 to the intersection with Kentucky 1780, completing the boundary.

(11) [(40)] EHU 6E - Starting at the intersection of State Hwy 66 and Kentucky 2011 near Beverly, the boundary proceeds south along Kentucky 2011 to the intersection with State Hwy 221 at Stoney Fork. The boundary then follows State Hwy 221 west to the intersection with State Hwy 66 at Straight Creek, turning north along State Hwy 66 to the intersection with Kentucky 2011, completing the boundary.

Section 8. Post-season [Postseason] Quota Hunt for Antlerless Elk on Private Land. (1) A modern firearms quota hunt for antlerless elk and elk having less than four (4) points on both sides shall take place beginning on the fourth [4th] Saturday in January for fourteen (14) consecutive days.

(2) Each hunter shall be randomly drawn from the pool of applicants:

(a) Who were not drawn for the previous elk quota hunts; and

(b) Who are residents of the elk restoration zone.

(3) A drawn applicant shall comply with the requirements in Section 5 of this administrative regulation except that an applicant may hunt only in the assigned EMU or on land the applicant owns within another EMU.

(4) EMU boundaries shall be [designated as follows]:

(a) Knott County EMU - Starting at the intersection of State Hwy 550 and State Hwy 7 near Lackey, the boundary proceeds south along State Hwy 7 to the intersection with State Hwy 582

1 then southeast on State Hwy 582 to the intersection of State Hwys 582 and 160. The boundary
2 then proceeds north on State Hwy 160 to the intersection with State Hwy 550 at Hindman,
3 turning northeast on State Hwy 550 to the intersection with State Hwy 7, thus completing the
4 boundary.

5 (b) Stoney Fork EMU - Starting at the intersection of State Hwy 2058 and US Hwy 421 near
6 Helton, the boundary then proceeds south along US Hwy 421 to the intersection of US Hwy 421
7 and US Hwy 119 near Harlan, then west along US Hwy 119 to the intersection of US Hwy 119
8 and US Hwy 25E. The boundary then goes north following US Hwy 25E to the intersection with
9 State Hwy 66, then north on State Hwy 66 to the intersection of State Hwys 66 and 1850, then
10 east along State Hwy 1850 to the intersection of State Hwys 1850 and 1780 at Warbranch. The
11 boundary then proceeds south on State Hwy 1780 to its intersection with State Hwy 2058 near
12 Spruce Pine, then east on State Hwy 2058 back to US Hwy 421 at Helton, thus completing the
13 boundary.

14 (5) Any public hunting area within an EMU shall be closed to elk hunting during this season.

15 Section 9. Tagging and Checking Requirements. Immediately after taking an elk and prior to
16 removing the hide or head from the carcass, a hunter shall:

17 (1) Record on a hunter's log the following information:

18 (a) The species harvested;

19 (b) The sex of the animal;

20 (c) Date of harvest; and

21 (d) County of harvest; and ~~[harvest.]~~

22 (2) Check the harvested elk by calling 800-245-4263 and recording the confirmation number on
23 a hunter's log; ~~and~~

(3) ~~If hunting in the elk zone during the elk quota hunts, attach a department issued tag to the carcass before moving it].~~

Section 10. Elk Hunting on Public Land. (1) A person drawn for an elk quota hunt or the recipient of a special commission permit may hunt on Wildlife Management Areas (WMA), state forests, the ~~[drawn applicant or recipient of a special commission permit may hunt on Wildlife Management Areas (WMA), state forests,]~~ Big South Fork National River and Recreation Area, the Daniel Boone National Forest, and the Jefferson National Forest within the restoration zone under the conditions of the permit received.

(2) Portions of Paintsville Lake WMA that lie out of the restoration zone ~~[lie outside the restoration zone and]~~ are subject to the requirements established in Section 11 of this administrative regulation.

(3) Elk hunting shall not be allowed on public areas during quota deer hunts listed in 301 KAR 2:178.

(4) Paul Van Booven WMA.

(a) The archery and crossbow seasons shall be open as established ~~[set forth]~~ in Section 6 of this administrative regulation.

(b) Firearms shall not be used to hunt elk, except that youths participating in the youth-only elk quota hunt may use any legal weapon to take elk.

(c) The WMA shall be closed to all other hunting during the youth-only elk quota hunt.

Section 11. Out-of-zone Elk Hunting. (1) The methods for taking deer and the deer seasons established in 301 KAR 2:172 shall apply to a person ~~[of taking and seasons established in 301 KAR 2:172 shall apply to]~~ taking elk outside of the restoration zone.

(a) A person taking an out-of-zone elk ~~[In order to harvest an out-of-zone elk, a hunter shall be a~~

1 ~~legal deer hunter and]~~ shall possess an out-of-zone elk permit.

2 (b) A landowner shall be exempt from this permit requirement pursuant to KRS 150.170(4).

3 (2) Either sex elk may be taken and shall not count toward a person's ~~[towards the]~~ deer bag

4 limit.

5 (3) Any elk harvested out-of-zone shall be telechecked pursuant to ~~[Elk harvested out-of-zone~~


6 ~~shall be telechecked in accordance with]~~ Section 9 of this administrative regulation.

7 Section 12. A person who takes possession of any elk antler that has the skull or skull plate

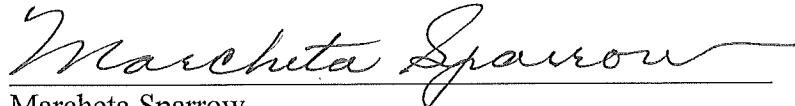
8 attached to it shall contact the department's Law Enforcement Division within twenty-four (24)

9 hours to obtain a disposal permit.

Approved by the Fish and Wildlife Commission March 5, 2010.



Benjy Kinnman, Deputy Commissioner, for
Dr. Jonathan Gassett, Commissioner
Department of Fish and Wildlife Resources



Marcheta Sparrow
Secretary
Tourism, Arts and Heritage Cabinet

03-11-10

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2010 at 1:00 p.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled.

This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation by April 30, 2010.

Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

Rose Mack
Department of Fish and Wildlife Resources
Arnold L. Mitchell Building
#1 Sportsman's Lane
Frankfort, KY 40601
(502) 564-7109, Extension 4507
FAX (502) 564-9136

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

301 KAR 2:132. Elk depredation permits, landowner cooperator permits, and hunts.

Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes elk hunting requirements and legal methods to handle elk depredation problems.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to define the boundaries of the units to which hunters are assigned, to establish hunting procedures, and to effectively manage elk in the Commonwealth.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025 authorizes the department to promulgate administrative regulations governing the taking of wildlife. KRS 150.170(4) exempts landowners, the dependents, and their tenants from license requirements. KRS 150.177 and KRS 150.178 authorize the issuance of commission permits and landowner cooperator permits. KRS 150.390 authorizes the department to promulgate administrative regulations for the removal of elk that are causing destruction to property and to establish elk hunting seasons and requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The elk population continues to increase and requires additional harvest as the statute provides. This regulation establishes seasons and requirements for elk hunting.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment subdivides EHU 3 into 2 subunits to better distribute hunting pressure on Consol WMA, removes the November firearms elk season, assigns cow hunters to 1 of 2 firearms weeks, eliminates the metal tag requirement for in-zone hunters, removes the deer permit requirement for out-of-zone hunters, allows landowner cooperators to opt for 2 antlerless tags in lieu of 1 antlered tag, creates 4 types of regular quota hunts for the 2011-2012 elk season, blocks those drawn for a bull tag from entering the lottery for 3 years, blocks those drawn for the special youth hunt from applying for that hunt again, and sets a 2 week archery-only season in September.

(b) The necessity of the amendment to this administrative regulation: See 1 (b) above.

(c) How the amendment conforms to the content of the authorizing statutes: See 1(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See 1(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are approximately 35,000 to 50,000 people who apply to hunt elk in Kentucky each year. People who own or lease land over 5,000 acres can enter into an agreement with the Department for public hunting access and

receive elk tags. Property owners sustaining damage from elk can benefit from the late season depredation hunt. Residents of the elk zone who applied for the regular season hunt shall be eligible for the late season depredation hunt.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: A person who is less than sixteen (16) years old by the day of the hunt may apply for youth permits. Hunters may apply for 2 elk lotteries with their choice of weapon and gender.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment does not change any costs to the entities identified in 3 for the 2010-2011 elk season. For the 2011-2012 season, hunters may apply for 2 lotteries per season, at the cost of \$10 per application.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Hunters may apply for up to 2 of the 4 lotteries. Hunters drawn for archery tags will get 2 weeks prior to the October firearms season to hunt, and crossbow hunters will get one week.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Other than a minor administrative cost, there will be no additional cost to the agency to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost to the agency on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund. The department already has the mechanisms in place for administering quota hunt application procedures, random drawings and other aspects of the elk hunts.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Additional fees for direct implementation of this regulation are not necessary, as infrastructure for conducting all aspects of elk management and quota hunts already exists (see "6" above).

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation amendment does not establish any fees nor does it indirectly increase any fees.

(9) TIERING: Is tiering applied? Yes. Residents of the elk restoration zone who are not drawn for the regular quota hunt shall be eligible for a late season depredation hunt. The purpose of this hunt is to allow residents to assist landowners in removing elk causing property damage in 2 areas with chronic nuisance elk problems. Fewer than 50 tags for antlerless and spike bulls will be drawn. These tags can only be used on private land within one of the 2 Elk Management

Units. The number of tags to be issued will be determined by the level of nuisance elk cases or property damage caused by elk documented within the EMU's prior to January each year.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 301 KAR 2:132

Contact Person: Rose Mack

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?

Yes X No

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources' Divisions of Wildlife and Law Enforcement will be impacted by this amendment.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025, KRS 150.170, KRS 150.177, KRS 150.178, KRS 150.390.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? For the 2009 elk season, 46,009 people paid the \$10 lottery application fee (\$460,090 of revenue to the department). A total of 926 of the 1,000 drawn hunters paid for elk permits, generating \$53,575 in additional revenue to the department. Total revenue directly generated by the elk hunts for the department was \$513,665.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Each year has brought increases in the number of applicants and thus the direct revenue to KDFWR. There is also a positive economic impact to cities, counties and local businesses in and near the elk restoration zone, but the specific dollar amount is unknown.

(c) How much will it cost to administer this program for the first year? There will be no additional costs incurred for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): See 4 (a) and (b) above.

Expenditures (+/-): No additional expenditures; see 4 (c) and (d) above

Other Explanation: